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CONNOLLY BOVE LODGE & HUTZ LLP
SUITE 800
1990 M STREET NW
WASHINGTON, DC 20036-3425

OCT 28 2004

In re Application of :
BERTIN et al. : **DECISION ON PETITION**
Application No. 09/588,617 :
Filed: June 6, 2000 :
Attorney Docket No. BUR9-1999-0264-US1 :

This is a decision on the petition filed January 22, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is GRANTED.

A non-final Office action was mailed October 9, 2003, setting a shortened statutory period for filing a response. In the absence of a response, the application was held abandoned and a Notice of Abandonment was mailed January 14, 2004.

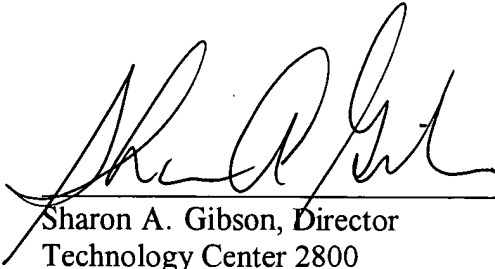
Petitioner asserts that an Amendment and Response was timely filed by facsimile transmission on January 9, 2004. To support the assertion, petitioner submitted 1) a copy of a response entitled "Amendment in Response to Non-final Office Action," 2) a copy of the Certificate of Transmission under 37 C.F.R. § 1.8(a) dated January 9, 2004 and 3) a copy of the sending unit's report confirming successful transmission of fourteen pages.

The review of the application file reveals that the response entitled "Amendment in Response to Non-final Office Action" was received and matched with the file. However, the response was not noticed by either the examiner or the technical support staff and consequently the application was held to be abandoned. The application is not abandoned in fact.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the technical support staff for processing the response to the October 9, 2003 Office action. From there, it will be returned to the examiner for further prosecution.

Questions regarding this decision should be directed to Jose' G. Dees at 571-272-1569.

A handwritten signature in black ink, appearing to read 'Sharon A. Gibson', is written over a horizontal line.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components